



Fact Sheet

Feb. 24, 2009

PREMIUM PROCESSING SERVICE FOR CERTAIN FORM I-140 PETITIONS BEGINS MARCH 2, 2009

U.S. Citizenship and Immigration Services (USCIS) will expand Premium Processing Service for designated Forms I-140, [Immigrant Petition for Alien Worker](#) to include alien beneficiaries who have reached or are reaching their limitation of stay in H-1B nonimmigrant status. Currently, only certain alien beneficiaries who are in H-1B nonimmigrant status at the time of filing may request Form I-140 Premium Processing Service.

Starting on March 2, USCIS will accept the Form I-907, [Request for Premium Processing Service](#), for Forms I-140 filed on behalf of alien beneficiaries who, as of the date of filing the Form I-907:

- Are the beneficiary of a form I-140 petition filed in a preference category that has been designated for premium processing service;
- Have reached the 6th year statutory limitation of their H-1B stay, or will reach the end of their 6th year of H-1B stay within 60 days of filing;
- They are only eligible for a further H-1B extension upon approval of their Form I-140 petition as prescribed by American Competitiveness in the Twenty-first Century Act (AC21) provisions 104(c)¹; and
- Are ineligible to extend their H-1B status under AC21 §106(a)².

Under the Premium Processing Program, USCIS may place such conditions of availability for the Premium Processing Program. The petitioner must establish that the Form I-140 for which the Form I-907 is filed satisfies these conditions. To facilitate USCIS's determination of whether a particular filing meets the conditions, petitioners can submit:

- Copies of all Forms I-94, Arrival/Departure Record and I-797 H-1B or L approval notices that have been issued on his or her behalf;
- A copy of the relating Form I-140 petition receipt notice if the form was previously filed; and,
- A copy of the labor certification approval letter issued by the Department of Labor, if filing under the EB-2 or EB-3 classifications.

¹ Public law known as the American Competitiveness in the Twenty-first Century Act of 2000 (AC21) permits up to a three-year extension of stay for an H-1B nonimmigrant alien, provided he or she is the beneficiary of an approved Form I-140 petition and otherwise eligible for lawful permanent resident status except that the employment-based preference visa is unavailable.

² USCIS grants an H-1B extension of stay pursuant to §106(a) of AC21, in one-year increments, until such time as a final decision has been made to (1) deny the application for labor certification, or, if the labor certification is approved, to deny the employment-based immigrant petition that was filed pursuant to the approved labor certification; (2) deny the employment based immigrant petition, or; (3) grant or deny the alien's application for an immigrant visa or for adjustment of status.

Form I-907 Premium Processing Service requests that do not clearly meet the conditions will be rejected and returned with the I-907 fee. The Form I-140 petition will be processed according to standard, non-premium processing procedures if the Form I-907 is:

- Submitted without documentation establishing the conditions for availability noted above;
- Incorrectly submitted concurrently with a Form I-140 petition at a USCIS office without geographic jurisdiction over the Form I-140 petition; or
- Submitted to request Premium Processing Service for a Form I-140 petition filed for an alien beneficiary who is eligible to extend his or her H-1B nonimmigrant status under AC21 §106(a) as of the date that the Form I-907 is received by USCIS.

USCIS will accept Form I-907 either together with the Form I-140 petition or after the filing of the Form I-140 petition through the mail or delivery service only. E-filing for Form I-907 will not be available. USCIS expects that adding other classifications to Premium Processing Service at this time would exceed USCIS' capacity to provide timely Premium Process Service. USCIS will continue to evaluate whether it is able to process other groups of cases beyond this limited classification of petitions and will provide notification of any further availability of Premium Processing Service for Form I-140